

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

DIANE D. PLUNK,

Plaintiff,

v.

No. 05-2443 B

SHELBY COUNTY GOVERNMENT,

Defendant.

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ORDER ADOPTING MAGISTRATE JUDGE'S REPORT & RECOMMENDATION AND  
DISMISSING CASE

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On July 10, 2006, this Court entered an order referring to Magistrate Judge Tu M. Pham for determination the motion to withdraw of the Plaintiff's counsel, Kathleen Caldwell. On July 25, 2006, Magistrate Pham entered an order granting counsel's motion and instructing the deceased Plaintiff's representative, Mike Plunk, to notify the Court within thirty days of the Plaintiff's new counsel. Plunk failed to comply with the deadline, and Judge Pham entered an Order to show cause why the case should not be dismissed for failure to prosecute, giving the Plaintiff eleven days in which to respond. On October 4, 2004, Judge Pham issued a Report and Recommendation, recommending that Plunk's case be dismissed with prejudice for failure to comply with the Show Cause Order. Following a hearing, the Judge Pham issued a report recommending that the Plaintiff's case be dismissed with prejudice. See (Report & Recommendation of Judge Pham, Oct. 4, 2006, at 2-3).

Based upon a de novo review of the record before it, the Court hereby accepts the disposition by Judge Pham as set forth in his report and recommendation. See Fed. R. Civ. P. 72(b). The Court concludes that this case should be DISMISSED WITH PREJUDICE based upon the Plaintiff's

failure to comply with the Show Cause Order or otherwise prosecute this action.

**IT IS SO ORDERED** this 30<sup>th</sup> day of October, 2006.

s/ J. DANIEL BREEN  
UNITED STATES DISTRICT JUDGE